

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JAMARCUS FENNELL</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	<b>NO. 18-4870</b>
	:	
<b>CHARLES HORVATH, et al.</b>	:	

**ORDER**

**AND NOW**, this 3<sup>rd</sup> day of May 2019, upon considering Defendants' Motion to dismiss (ECF Doc. No. 33), Plaintiff's Opposition (ECF Doc. No. 38), and for reasons in the accompanying Memorandum, it is **ORDERED** Defendants' Motion (ECF Doc. No. 33) is **GRANTED in part** and **DENIED in part**:

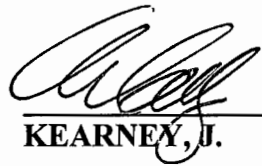
1. Defendants' Motion (ECF Doc. No. 33) is **DENIED** only as to the following claims which will proceed into discovery after the remaining Defendants answer no later than **May 17, 2019**:

- a. The Fifth and Sixth Amendment and retaliation claims against Officer Horvath;
- b. The Fourteenth Amendment claim against Officer Colarusso arising from labeling the Plaintiff a "snitch", for spraying mace, and for paying an inmate to stab Plaintiff;
- c. The Fourteenth Amendment and retaliation claims arising from the December 6, 2018 strip search against Lieutenants Cruz and Heinrich and Officers Giazono and Wagner; and,

2. The remainder of Defendants' Motion (ECF Doc. No. 33) is **GRANTED**:

- a. The remaining claims are dismissed; and,
- b. We **DISMISS** Warden David Penchishen, Deputy Warden Bartholomew, Captain David Collins, Captain Jason Werley, Lieutenant Rinker, Lieutenant Chlewboski, Lieutenant Warning, Corrections Officer Shultz, Corrections Officer Parsons, Corrections Officer Santiago,

Corrections Officer Kozma, Corrections Officer Walker, Corrections Officer Patterson, Corrections Officer Castro, Corrections Officer Santos, Treatment Coordinator Herstich and Hearing Examiner John Harman.



---

KEARNEY, J.